

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FRONTIER FISHING CORP.,)	
)	
Plaintiff,)	
v.)	
)	CIVIL ACTION
DONALD EVANS, Secretary of the)	
UNITED STATES DEPARTMENT OF)	NO. 04-11171-DPW
COMMERCE; and CONRAD C.)	
LAUTENBACHER JR., Under Secretary)	
for Oceans and Atmosphere / Administrator,)	
)	
Defendants.)	
_____)	

DEFENDANTS' MOTION FOR SECOND EXTENSION TO REPLY

Defendants request that this Court permit an extension of an additional two weeks within which to file a response to Plaintiff's Motion for Assessment of Fees Pursuant to 28 U.S.C. § 2412, up to and including June 9, 2006. Defendants' response is due on May 26, 2006. Regrettably, due to the press of other deadlined business and the time needed to obtain supervisory approval of Defendants' response, Defendants have been unable to complete their response for filing. As previously noted, an issue to be addressed in the response is whether defendants were reasonably justified in their position in this litigation, and thoughtful briefing of this issue for the Court has required and will require input and consideration at several levels within the agency. The same is true of the other issue to be addressed, the threshold issue of whether Plaintiff has "prevailed" – for purposes of EAJA fees – in this litigation. Defendants see no prejudice to Plaintiff if this motion were granted, as the extension requested is not long.

Counsel for Defendants has consulted with counsel for Plaintiff on this Motion, and

counsel for Plaintiff takes no position on the Motion.

Accordingly, Defendants request that they be permitted to file their response up to and including June 9, 2006.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

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Certificate of Service and Rule 7.1 Conference

I hereby certify that I have served the foregoing upon counsel for Plaintiff, Stephen M. Ouellette, 163 Cabot Street, Beverly, MA 01915, by electronic transmission, and I have conferred with said counsel and he has no position on this motion, both on this 25th day of May 2006.

/S/ Anita Johnson